



# Montana Fish, Wildlife & Parks

1400 South 19<sup>th</sup> Avenue  
Bozeman, MT 59718

24 March 2003

To: Governor's Office, Todd O'Hair, State Capitol, Room 204, P.O. Box 200801, Helena, MT 59620-0801  
Environmental Quality Council, State Capitol, Room 106, P.O. Box 201704, Helena, MT 59620-1704  
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901  
Montana Fish, Wildlife & Parks:

Director's Office

Parks Division

Lands Section

FWP Commissioners

Fisheries Division

Legal Unit

Wildlife Division

Design & Construction

MT Historical Society, State Historic Preservation Office, P.O. Box 201202, Helena, MT 59620-1202

MT State Parks Association, P.O. Box 699, Billings, MT 59103

MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620

James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624

George Ochenski, P.O. Box 689, Helena, MT 59624

Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771

Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624

Wayne Hurst, P.O. Box 728, Libby, MT 59923

Bob Raney, 112 S. 6<sup>th</sup> St., Livingston, MT 59047

Ladies and Gentlemen:

Attached to this cover letter is an Environmental Assessment (EA) for a proposed land exchange at the Emigrant West Fishing Access Site (FAS) in Park County, Montana. This exchange would be made with funding from the Fishing Access Site Acquisition Account and the private landowner.

Montana Fish, Wildlife & Parks invites you to comment on the attached proposal. The public comment period will run from Tuesday, 25 March to 5:00 p.m., Thursday, 24 April 2003. Comments should be sent to the following:

Bruce Rich  
Fisheries Manager  
FWP Region Three  
1400 South 19<sup>th</sup> Avenue  
Bozeman, MT 59718

Or e-mailed to: [emigrantwestea@montana.edu](mailto:emigrantwestea@montana.edu).

Sincerely,

Patrick J. Flowers  
Region Three Supervisor

*Park  
Misc*

Attachment

# EPA/NEPA/HB495 CHECKLIST

## PART I. PROPOSED ACTION DESCRIPTION

1. **Type of Proposed State Action** Land ownership exchange
2. **Agency Authority for the Proposed Action** Montana Fish, Wildlife & Parks (FWP) undertakes this action by authority of MCA 23-1-102 and MCA 87-1-209 defining FWP powers and duties regarding the acquisition of lands as state recreational areas and for the purpose of public fishing
3. **Name of Project** Emigrant West Fishing Access Site Boundary Relocation
4. **Name, Address, and Phone Number of Project Sponsor (if other than the agency)**  
Montana Fish, Wildlife & Parks is the Project Sponsor
5. **Estimated Construction/Commencement Date** No construction is proposed  
**Estimated Completion Date** Land exchanges to be completed by 1 July 2003  
**Current Status of Project Design (% complete)** No construction is proposed
6. **Location Affected by Proposed Action (county, range, township)**  
Park County: Township 5 South, Range 8 East, Section 27
7. **Project Size: Estimate the number of acres that would be directly affected that are currently:**

<u>Acres</u>		<u>Acres</u>	
(a) Developed:		(d) Floodplain .....	0.403
Residential .....	0		
Industrial .....	0	(e) Productive:	
		Irrigated cropland .....	0
(b) Open Space/Woodlands/Recreation .....	0.643	Dry cropland .....	0
		Forestry .....	0
(c) Wetlands/Riparian Areas .....	0	Rangeland .....	0
		Other .....	0

## 8. Map/site plan

Emigrant West Fishing Access Site (FAS) is located near the town of Emigrant, Montana (Figure 1). This FAS is comprised of 14 lots (numbers 2 through 15) of the Whitetail Meadows subdivision. Proposed boundary relocations would occur in part of Lot 2 now owned by FWP, and a portion of Lot 1 currently in private ownership (Figure 2).

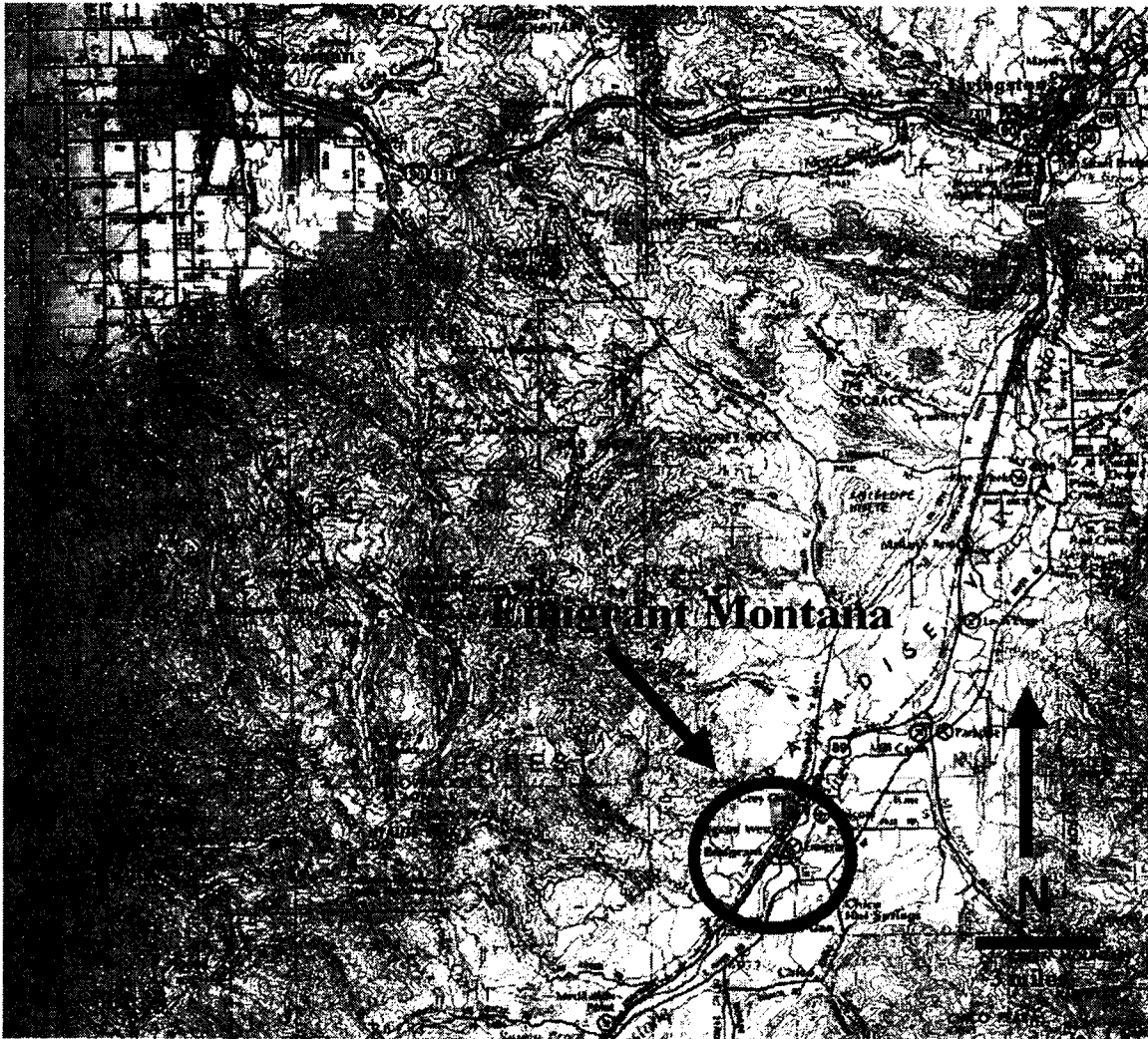


Figure 1. Geographic location of the proposed land ownership exchange, Emigrant West Fishing Access Site, Park County, Montana.

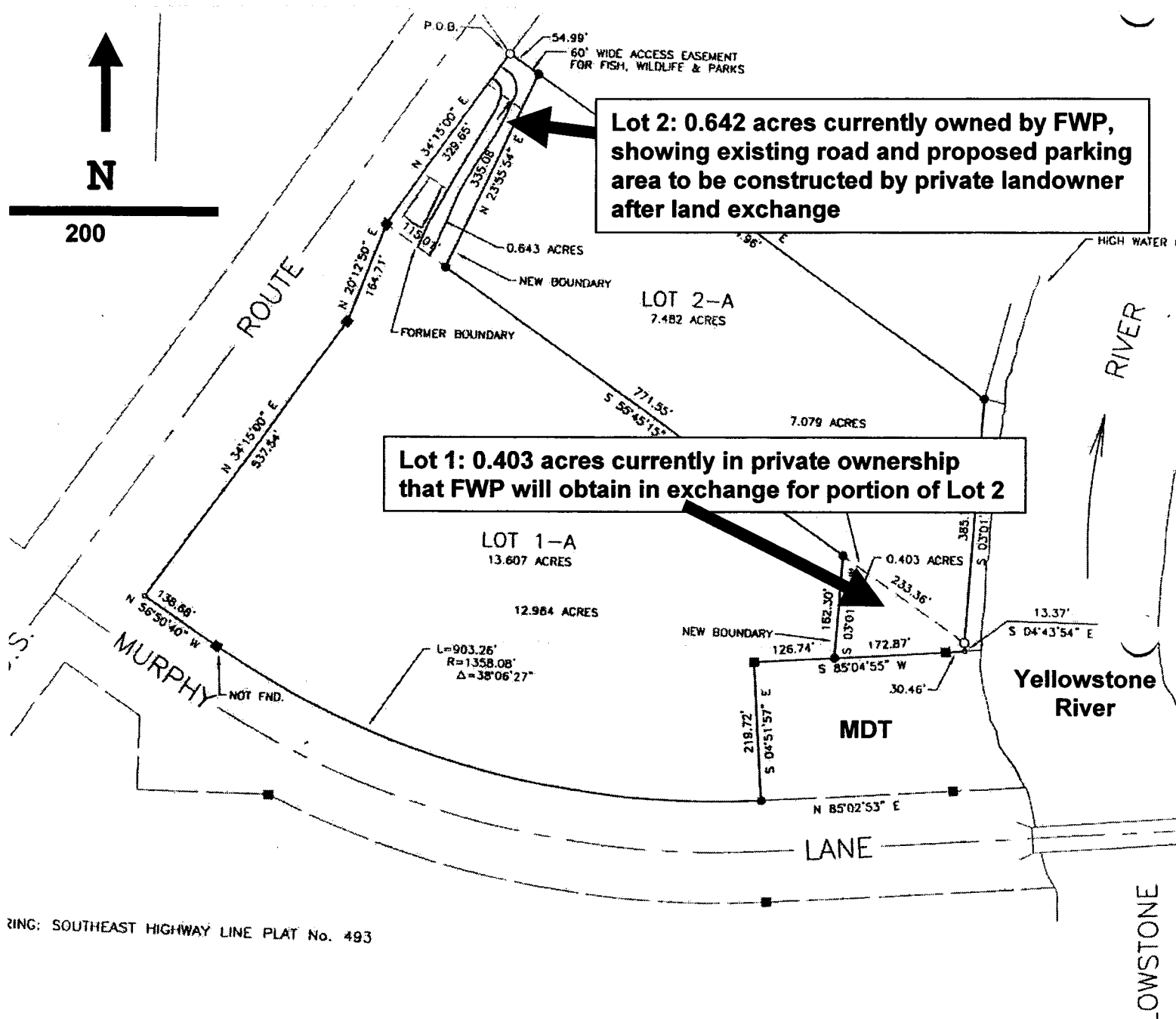


Figure 2. Detail of land boundary relocations being considered at the Emigrant West Fishing Access Site. FWP would trade 0.643 acres of Lot 2 of the Whitetail Meadows subdivision for 0.403 privately-owned acres in Lot 1 that adjoin land owned by the Montana Department of Transportation (MDT).

9. Listing of any other Local, State, or Federal agency that has overlapping or additional jurisdiction.
  - (a) Permits: None
  - (b) Funding: FWP appraisal, survey, and incidental costs are shared between FWP (Fishing Access Acquisition Account) and the private landowner

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Montana Historic & Land Preservation Office: Preservation of historic and archeological features.

National Park Service: Decision authority in land issues involving Land and Water Conservation Funds (LWCF).

10. Narrative summary of the proposed action or project, including the benefits and purpose of the proposed action:

FWP proposes to exchange ownership of 0.643 acres of land in Lot 2 of the Whitetail Meadows subdivision bordering U.S. Highway 89 South near Emigrant, Montana for 0.403 privately owned acres in Lot 1 bordering the Yellowstone River and adjoining property owned by the Montana Department of Transportation. The size of each property to be exchanged was determined by real estate assessment of equivalent values given the minimum-size property in Lot 2 that was sufficient to satisfy the private landowner's desire to provide highway access to his commercial property from U.S. Highway 89 South. FWP already allowed a temporary road to be built on the Lot 2 property during highway construction to widen U.S. Highway 89 South in 2002 in exchange for public access and parking at the Emigrant West FAS. This temporary road project was the subject of an earlier Environmental Assessment completed October 22, 2002.

The new lot boundaries would consolidate public ownership from Murphy Lane through the Emigrant West FAS (Figure 2). FWP would also retain a roadway easement in the 0.643 acres of Lot 2 to provide public recreational access to the Emigrant West FAS from U.S. Highway 89 South using the highway approach already permitted by MDT (MDT # NH 11-11(37)31). The private landowner would build a public parking area in Lot 2 near U.S. Highway 89 South to accommodate FAS users.

The primary benefits of the proposed boundary relocations are consolidated public ownership at the Emigrant West FAS, and the additional ability to protect property bordering the Yellowstone River from potentially problematic development that might otherwise occur on private land. Continuous public ownership would be established from Lot 15 of the Whitetail Meadows subdivision south along the Yellowstone River to Murphy Lane.

A summary assessment of anticipated environmental impacts of this project, and alternative proposals, are presented below.

11. List of agencies consulted during preparation of the EA:

No other agencies were involved in the preparation of this Environmental Assessment. Because this site was acquired with land and water laws funds, the National Park Service will have authority for final approval of the land exchange if a decision is made to go forward as proposed.

## Environmental Review: Physical Environment

**Table 1. Land Resource Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Soil instability or changes in geologic substructure?		X				
Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?		X				
Destruction, covering or modification of any unique geologic or physical features?		X				
Changes in siltation, deposition, or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
Other concerns:		X				See Comments below

*Comments:* Exchanging land ownership in itself will have no impact on existing land resources. However, we recognize that enhanced public access might increase recreational activity at this FAS. Normal site maintenance should be adequate to identify new problems as they develop, allowing opportunity for reseeding or other actions to circumvent problems if necessary and appropriate.

**Table 2. Air Quality Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Emission of air pollutants or deterioration of ambient air quality?			X			See Comments below
Creation of objectionable odors?			X			See Comments below
Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
Other concerns:		X				

*Comments:* Air quality should not be adversely affected beyond the usual exhaust emissions and dust associated with normal recreational use of the site.

**Table 3. Water Resource Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen, or turbidity?		X				
Changes in drainage patterns or the rate and amount of surface runoff?			X		Yes	See Comments below
Alteration of the course or magnitude of floodwater or other flows?		X				
Changes in the amount of surface water in any water body or creation of a new water body?		X				
Exposure of people or property to water-related hazards such as flooding?		X				
Changes in the quality of groundwater?		X				
Changes in the quantity of groundwater?		X				
Increase in the risk of contamination of surface or groundwater?			X		Yes	See Comments below
Effects on any existing water right or reservation?		X				
Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
Other concerns:		X				

*Comments:* Increased site use might increase soil compaction, reduce infiltration, and potentially increase surface water runoff to a small degree. However, substantial natural vegetation exists to filter and prevent adverse impacts to the local drainage. Water quality should be unaffected: oil and gas spills from vehicles are possible, but serious problems seldom develop from normal recreational use. Normal site maintenance and oversight should identify problems if they develop, and allow appropriate early cleanup if necessary.

**Table 4. Local Vegetation Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Changes in the diversity, productivity, or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X		Yes	See Comments below
Alteration of a plant community?			X		Yes	See Comments below
Adverse effects on any unique, rare, threatened, or endangered species?			X		Yes	See Comments below
Reduction in acreage or productivity of any agricultural land?		X				
Establishment or spread of noxious weeds?			X		Yes	See Comments below
Other concerns:		X				

**Comments:** Noxious weeds are a concern any time soil is disturbed. Increased use of the site could increase the risk that noxious weeds are introduced at this location. Risks are lessened by the fact that substantial vegetation exists to prevent the establishment of new species. Normal site maintenance will allow for identification of developing problems, and for treatment of weeds, reseeding, or other remedial actions, should they become necessary. Noxious weed control actions in FWP Region Three are further addressed in a comprehensive Region Three Noxious Weed Management Plan.

Weged-Leave Saltbrush (*Atriplex truncata*), a species of special concern, is reported to exist in the Emigrant area, but its last confirmed sighting was in 1887. Although its abundance in Montana is rare, it is secure, even common, across a broader geographic range. Lack of recent verifications and ambiguities about its status near Emigrant indicate that the proposed land exchange should have no significant effects for this plant.

**Table 5. Fish and Wildlife Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Deterioration of critical fish or wildlife habitat?		X				
Changes in the diversity or abundance of game animals or bird species?		X				
Changes in the diversity or abundance of nongame species?		X				
Introduction of new species into an area?		X				
Creation of a barrier to the migration or movement of animals?		X				
Adverse effects on any unique, rare, threatened, or endangered species?			X			See Comments below

(continued Page 8)



**Table 5. Fish and Wildlife Considerations (continued from page 7)**

Consideration:  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest, or other human activity)?		X				
Other concerns:		X				

*Comments:* Bald eagles (*Haliaeetus leucocephalus*) fly through the area, but the land exchange should not result in significantly greater disturbance than already associated with normal recreational activities at this established FAS. Similarly, the land exchange should not significantly affect any aquatic life, including the Yellowstone Cutthroat Trout (*Oncorhynchus clarki bouvieri*), a species of special concern. The land exchange should have no serious adverse effects for other wildlife in the area. Normal site maintenance will allow early identification of problems if they develop, at which time remedial actions can be easily implemented, if necessary.

### Environmental Review: Human Environment

**Table 6. Noise and Electrical Considerations**

Consideration:  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Increases in existing noise levels?		X				
Exposure of people to severe or nuisance noise levels?		X				
Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
Interference with radio or television reception and operation?		X				
Other concerns:		X				See Comments below

*Comments:* Nuisance noise levels should not exceed those expected from normal recreational use of this FAS. No electrical risk or problem with electrical interference is expected.

**Table 7. Current Land Use Considerations**

Consideration:  Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
Conflict with a designated natural area or area of unusual scientific or educational importance?		X				
Conflict with any existing land use which would constrain or potentially prohibit the proposed action?		X				

(continued Page 9)

**Table 7. Current Land Use Considerations** (continued from Page 8)

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Adverse effects on or relocation of residences?		X				
Other concerns:		X				See Comments below

*Comments:* No land use conflicts are expected.

**Table 8. Human Health Risk Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Risk of an explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals, or radiation) in the event of an accident or other form of disruption?		X				
Effect on existing emergency response or emergency evacuation plan, or creation of a need for a new plan?		X				
Creation of any human health hazard or potential hazard?		X				
Other concerns:		X				See Comments below

*Comments:* No human health risks are anticipated.

**Table 9. Community Impact Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
Alteration of the social structure of a community?		X				
Alteration of the level or distribution of employment or community or personal income?		X				
Changes in industrial or commercial activity?		X				
Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
Other concerns:		X				See Comments below

*Comments:* No adverse community impacts are expected.

**Table 10. Public Services, Taxes, and Utilities Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Required changes in governmental services?			X		Yes	See Comments below
An effect upon the local or state taxbase and revenues?		X				
A need for new facilities or substantial alterations of any utilities?		X				
Increased use of any energy source?		X				
Other concerns:		X				

*Comments:* No adverse effect on local taxes is anticipated—FWP currently pays taxes exceeding \$3,000 annually to Park County; FWP would pay assessed taxes at this newly configured FAS as well. Because Emigrant West is an established FAS, we do not anticipate that site administration would require any additional public services for maintenance and enforcement.

**Table 11. Aesthetics and Recreational Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
Alteration of the aesthetic character of a community or neighborhood?		X				
Alteration of the quality or quantity of recreational/tourist opportunities and settings?			X			See Comments below
Other concerns:		X				

*Comments:* Exchanging land ownerships will have no meaningful effect on local aesthetics of the FAS. Enhanced recreational access may increase use in the area slightly, but this use should be easily accommodated since this is an already-established FAS. Normal site maintenance should be adequate to identify and remedy new problems if they develop.

**Table 12. Cultural and Historic Resource Considerations**

Consideration: Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment
	Unknown	None	Minor	Potentially Significant		
Destruction or alteration of any site, structure, or object of prehistoric, historic, or paleontological importance?		X				
Physical change that would affect unique cultural values?		X				
Effects on existing religious or sacred uses of a site or area?		X				
Other concerns:		X				See Comments below

*Comments:* No development of the site is proposed here that might otherwise damage or destroy important cultural or historic resources. No site development will occur without further environmental review specific to those development proposals.

**Table 13. Summary Evaluation of the Emigrant West Fishing Access Site Boundary Relocation Project**

Consideration: Will the proposed action, considered as a whole:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
Have impacts that are individually limited, but cumulatively considerable?		X				
Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		X				
Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard, or formal plan?		X				
Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
Generate substantial debate or controversy about the nature of the impacts that would be created?		X				See Summary Comments below

### Summary Comments

Exchanging lands as proposed without site development enhances recreational opportunities for people at very little expense. Improved access will benefit public use of an established FAS. The property is well located to accommodate increased recreational use should it occur. No substantial controversy concerning this project is anticipated now or in the future.

## **PART II. ENVIRONMENTAL REVIEW, continued**

2. **Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider; and, a discussion of how the alternatives would be implemented:**

### **No Action: FWP does not exchange property ownership**

Abandoning the proposal will avoid any potentially adverse consequences of exchanging land ownership, although the anticipated problems are minor and easily resolved. None of the benefits of the proposed land exchange would be realized.

### **Establish a Different Public Access: FWP provides a different access to the Emigrant West FAS from U.S. Highway 89 South**

Public access at this FAS could be enhanced alternatively by providing a new turnout and parking area on other lots owned by FWP. This alternative would cost more, and no benefits of the proposed land exchange would be realized.

### **Discussion of Alternatives**

Taking no action requires no additional investment by FWP, but forgoes an opportunity to enhance public ownership and access to the Emigrant West FAS at very low cost. Without this land exchange, public ownership is disrupted between Murphy Lane and the Emigrant West FAS. The private landowner would lose access benefits from U.S. Highway 89 South that he desires for his commercial property. FWP investment in the land exchange project, about \$5,500.00 to date, would also be forfeited if the land exchange were to be abandoned.

Developing a new access from U.S. Highway 89 South would be much more expensive than trading for lands of equal value, and would not take advantage of the existing roadway in Lot 1. There is no surety that FWP could obtain appropriate authorization for this new access from MDT. And even if a new highway access were approved, additional construction could harm the FAS considerably more than using the infrastructure already in place. This alternative would not establish continuous public ownership from Murphy Lane through the Emigrant West FAS.

Exchanging lands as proposed would enhance public access from U.S. Highway 89 South, and would consolidate public ownership along the Yellowstone River from Murphy Lane through the Emigrant West FAS. This exchange would take advantage of existing infrastructure, and would benefit the private landowner by allowing him to develop a safe access to his commercial property from U.S. Highway 89 South. This safe access has several public benefits beyond those associated with use of the FAS, since the owner operates a gas station and grocery at this location.

### **PART III. NARRATIVE EVALUATION, CONCLUSION, AND COMMENT**

- 1. Based on the significance criteria evaluated in this Environmental Assessment (EA), is an Environmental Impact Statement (EIS) required? If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.**

No EIS is required.

An EA checklist is adequate to identify all major issues concerning this land exchange. Based on this evaluation, trading property, even if minimally altering the site for public use at some future date, poses virtually no risk to the local environment. In addition, the EA process protects and provides public opportunity to review and comment on the proposed project (see below).

- 2. Describe the level of public involvement for this project, if any; and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?**

The EA process will provide a 30-day opportunity for public comment on this proposed land exchange. Public notice of the project will be provided by publication of this EA on the FWP web site, and by advertisement of the proposed action in two local newspapers, Livingston Enterprise and Bozeman Daily Chronicle.

This level of public involvement is appropriate, considering the small scale of the project, its low environmental risks, and the small likelihood of conflict or controversy now or in the future.

- 3. Duration of comment period, if any.**

Thirty (30) days following the publication of the legal notice. Written comments will be accepted until **5:00 p.m., 24 April 2003**. All comments can be sent to the address or e-mail below:

<b>Bruce Rich</b> , Fisheries Manager, FWP Region Three, 1400 South 19 <sup>th</sup> Avenue, Bozeman, MT 59715; Phone: (406) 994-4042, E-mail: <a href="mailto:emigrantwestea@montana.edu">emigrantwestea@montana.edu</a> .
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- 4. Name, title, address, and phone number of the person(s) responsible for preparing the EA:**

Joel Tohtz, FWP Fisheries Biologist, Box 1414, Livingston, MT 59047  
Phone: (406) 222-5105  
E-Mail: [jet@wtp.net](mailto:jet@wtp.net)